

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

IN RE DELTA DENTAL ANTITRUST LITIGATION

CIVIL ACTION NO.

1:19-cv-06734

DEFENDANTS' NOTICE OF RELATED CASE

Pursuant to the Initial Case Management Order (“CMO”) entered by the Court on November 25, 2019 (Dkt. 95), Defendants, through their undersigned counsel, hereby submit this Notice of Related Case.

On April 3, 2020, the following case was filed in the U.S. District Court for the Northern District of Illinois: *Deep and Daughtry, PC, et al. v. Delta Dental Insurance Co., et al.*, Case No. 1:20-cv-02124 (“*Deep and Daughtry*”). The plaintiffs in the *Deep and Daughtry* case are represented by Foote, Mielke, Chavez & O’Neil, LLC and Wiggins, Childs, Pantazis, Fisher & Goldfarb, LLC. The case is currently assigned to Judge Andrea Wood. A true and correct copy of the Complaint is attached hereto as Exhibit A.

The *Deep and Daughtry* Complaint alleges substantially overlapping claims as those brought in the consolidated *In re Delta Dental Antitrust Litigation* cases. Like the complaints that have been consolidated before this Court, the *Deep and Daughtry* Complaint alleges antitrust violations based on claims of “market allocation,” Ex. A at pp. 35-38, “price fixing,” *id.* at pp. 38-40, and “revenue restriction,” *id.* at pp. 40-41. The Complaint also purports to bring the case as a putative class action on behalf of “[a]ll Delta Dental Providers, not owned or employed by any of the Defendants, that provide dental goods or services within the United States.” *Id.* at p. 55.

Furthermore, the *Deep and Daughtry* Complaint names over 50 Delta Dental defendants, substantially similar to the defendants that were originally named in the consolidated cases.

Defendants further note that on March 27, 2020, the Judicial Panel on Multidistrict Litigation transferred to this Court additional cases pending outside this District pursuant to 28 U.S.C. § 1407. *See In re Delta Dental Antitrust Litig.*, MDL No. 2931 (J.P.M.L.), Dkt. 168. Defendants have not notified the Panel of the pendency of the *Deep and Daughtry* complaint because the Panel rules do not require notification of potential tag-along actions filed in the transferee district. *See* JPML Rule 7.2(a). Nevertheless, for the same reasons as above, Defendants believe that the *Deep and Daughtry* case should be included as a member case in MDL No. 2931.

Under the CMO, the consolidated complaint filed with this Court “shall serve as the operative class action complaint, and the Defendants shall not be required to answer or otherwise respond to any other class action complaint filed to date or transferred into this Court.” *See* Dkt. 95 ¶ 18. Accordingly, pursuant to the CMO, we hereby notify the Court and Plaintiffs of this related case and respectfully request the *Deep and Daughtry* Complaint be consolidated with the instant action and included as a member case in MDL No. 2931.

Dated: April 7, 2020

Respectfully submitted,

/s/ Kathy L. Osborn

Kathy L. Osborn
Ryan M. Hurley
Anna Marie Behrmann
FAEGRE DRINKER BIDDLE & REATH LLP
300 N. Meridian St., Suite 2500
Indianapolis, IN 46204
(317) 237-8261
kathy.osborn@faegredrinker.com
ryan.hurley@faegredrinker.com
anna.behrmann@faegredrinker.com

Colby Anne Kingsbury
FAEGRE DRINKER BIDDLE & REATH LLP

/s/ Britt M. Miller

Britt M. Miller
Daniel K. Storino
MAYER BROWN LLP
71 South Wacker Drive
Chicago, IL 60606
(312) 782-0600
bmiller@mayerbrown.com
dstorino@mayerbrown.com

Mark W. Ryan
MAYER BROWN LLP
1999 K Street NW
Washington, DC 20006

311 S. Wacker Dr., #4400
Chicago, IL 60606
(312) 212-6573
colby.kingsbury@faegredrinker.com

Jeffrey S. Roberts
Joshua P. Mahoney
FAEGRE DRINKER BIDDLE & REATH LLP
1144 15th Street, Suite 3400
Denver, CO 80203
(303) 607-3500
jeff.roberts@faegredrinker.com
joshua.mahoney@faegredrinker.com

Counsel for Defendants Delta Plan of Arkansas, Inc., Delta Dental of Indiana, Inc., Delta Dental of Kentucky, Inc., Delta Dental Plan of Michigan, Inc., Delta Dental Plan of New Mexico, Inc., Delta Dental of North Carolina, Delta Dental Plan of Ohio, Inc., and Delta Dental of Tennessee

/s/ Benjamin W. Hulse
Jerry W. Blackwell
Benjamin W. Hulse
Gerardo Alcazar
BLACKWELL BURKE P.A.
431 South Seventh Street
Suite 2500
Minneapolis, MN 55415
612-343-3200
blackwell@blackwellburke.com
bhulse@blackwellburke.com
galcazar@blackwellburke.com

Lori Swanson
Mike Hatch
SWANSON HATCH, P.A.
431 South 7th Street
Suite 2545
Minneapolis, MN 55415
612-315-3037
lswanson@swansonhatch.com
mhatch@swansonhatch.com

(202) 263-3000
mryan@mayerbrown.com

Counsel for Defendants Delta Dental Plans Association, DeltaUSA, Delta Dental of Connecticut Inc., Delta Dental Plan of Idaho, Inc. d/b/a Delta Dental of Idaho, Dental Service of Massachusetts, Inc. d/b/a Delta Dental of Massachusetts, Delta Dental of Missouri, Delta Dental of New Jersey, Inc., Oregon Dental Service d/b/a Delta Dental of Oregon, Delta Dental of South Dakota, Delta Dental of Washington, and Delta Dental Plan of Wyoming d/b/a Delta Dental of Wyoming

/s/ Howard Ullman
Stephen V. Bomse
Russell P. Cohen
Howard Ullman
Nicole Gelsomini
ORRICK HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105
415-773-5700
sbomse@orrick.com
rcohen@orrick.com
hullman@orrick.com

Emily Luken
ORRICK HERRINGTON & SUTCLIFFE LLP
Columbia Center
1152 15th Street, N.W.
Washington, D.C. 20005
202-339-8400
elukken@orrick.com

Brian Joseph Murray
Timothy D. Elliot
RATHJE WOODWARD LLC
300 E. Roosevelt Road
Suite 300
630-668-8500

Counsel for Defendants Delta Dental of Minnesota and Delta Dental of Nebraska

/s/ David E. Dahlquist

David E. Dahlquist
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
312-558-5600
ddahlquist@winston.com

Counsel for Defendants Arizona Dental Insurance Service, Inc. d/b/a Delta Dental of Arizona, Hawaii Dental Service, Delta Dental of Iowa, Delta Dental of Kansas Inc., Maine Dental Service Corporation d/b/a Delta Dental Plan of Maine, Delta Dental Plan of New Hampshire, Inc., Delta Dental Plan of Oklahoma, Delta Dental of Rhode Island, and Delta Dental Plan of Vermont, Inc.

/s/ Allison W. Reimann

Allison W. Reimann
GODFREY & KAHN, S.C.
One East Main Street
Suite 500
Madison, WI 53703
608-257-3911
areimann@gklaw.com
Counsel for Defendant Delta Dental of Wisconsin, Inc.

Wheaton, IL 60187
bmurray@rathjewoodward.com
telliott@rathjewoodward.com

Counsel for Defendants Delta Dental Insurance Company, Delta Dental of California, Delta Dental of Delaware, Delta Dental of the District of Columbia, Delta Dental of New York, Delta Dental of Pennsylvania, Delta Dental of Puerto Rico, and Delta Dental of West Virginia

/s/ Scott D. Stein

Scott D. Stein
Colleen M. Kenney
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000
sstein@sidley.com
ckenney@sidley.com

Counsel for Defendants Colorado Dental Service, Inc. d/b/a Delta Dental of Colorado, Delta Dental of Illinois, and Delta Dental of Virginia

CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2020, I caused a true and correct copy of the foregoing DEFENDANTS' NOTICE OF RELATED CASE to be filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the electronic case filing system of the Court. The electronic case filing system sent a "Notice of E-Filing" to the attorneys of record in this case.

/s/ Britt M. Miller
Britt M. Miller